

Sixth Appellate District

San Jose, California

MONDAY, FEBRUARY 23, 2004

H025668 PEOPLE v. MILLER

The one-year enhancement for the prior prison term in case number 103930 is ordered stricken. The amount of the restitution fine is ordered reduced from \$5,000 to \$500. The amount of the parole revocation fine is ordered reduced from \$5,000 to \$500. It is also ordered that defendant receive an additional 443 days of presentence custody credit beyond the 845 actual days of post sentence custody credit specified in the abstract of judgment. As so modified, the judgment is affirmed. The trial court is ordered to send a copy of the amended abstract of judgment to the Department of Corrections. (not published)

(Mihara, J.; We concur: Bamattre-Manoukian, Acting P.J., Wunderlich, J.)

Filed February 23, 2004

H025752 PEOPLE v. KING

The judgment is affirmed. (not published)
(Elia, J.; We concur: Rushing, P.J., Premo, J.)

Filed February 23, 2004

H026446 In re RICHARD S; D.F.C.S. v. QUINDA N., et al.

The order of the juvenile court terminating parental rights is affirmed. (not published)

(Bamattre-Manoukian, Acting P.J.; We concur: Mihara, J., McAdams, J.)

Filed February 23, 2004

H025345 PEOPLE v. HOWELL

The judgment is modified to strike the section 667.5 allegation and to grant defendant 627 days of presentence custody credit rather than 419 days. The judgment is affirmed as modified. (not published)

(Wunderlich, J.; We concur: Bamattre-Manoukian, Acting P.J., Mihara, J.)

Filed February 23, 2004

Sixth Appellate District

San Jose, California

TUESDAY, FEBRUARY 24, 2004

H024877 BENNETT, et al. v. TRUTTMAN, et al.

The judgment is reversed. The superior court is directed to vacate its order granting Sellers' motion for summary judgment and to enter a new order denying the motion for summary judgment. In light of our ruling, the court's post-judgment order awarding Sellers \$52,444 in attorney fees is also reversed. Buyers shall have their costs on appeal. (not published)

(Rushing, P.J.; We concur: Wunderlich, J., Mihara, J.)

Filed February 24, 2004

H026106 PEOPLE v. SIMPSON

The judgment is affirmed. (not published)

(Wunderlich, J.; We concur: Bamattre-Manoukian, Acting P.J., Mihara, J.)

Filed February 24, 2004

H026221 PEOPLE v. MARCO O.

The judgment is affirmed. (not published)

(Wunderlich, J.; We concur: Bamattre-Manoukian, Acting P.J., Mihara, J.)

Filed February 24, 2004

WEDNESDAY, FEBRUARY 25, 2004

H025039 RMC PACIFIC MATERIALS, INC. v. COUNTY OF SANTA CRUZ, et al.; CITY OF SANTA CRUZ

(Filed order modifying opinion.) This modification does not affect the judgment. The petition for rehearing is denied. (not published)

(Mihara, J.; Elia, Acting P.J., Wunderlich, J.)

Filed February 25, 2004

H025603 BARAPOUR v. HATAMI

The judgment is affirmed. (not published)

(Rushing, P.J.; We concur: Premo, J., Elia, J.)

Filed February 25, 2004

Sixth Appellate District

San Jose, California

Wednesday, February 25, 2004 (continued)

H025987 PEOPLE v. ORABUENA

The judgment is reversed and the matter is remanded for resentencing so that the trial court may hold a hearing and exercise its discretion to determine whether the conviction for violating Vehicle Code section 14601 should be dismissed for the purpose of sentencing the defendant on the nonviolent drug offenses. If the court determines that the Vehicle Code conviction should be dismissed in the interest of justice to further the objectives of Proposition 36, it should set aside the conviction, dismiss the portion of the accusatory pleading that charges defendant with violating section 14601 of the Vehicle Code, and sentence defendant on the nonviolent drug offenses pursuant to Proposition 36. (published)

(McAdams, J.; We concur: Rushing, P.J., Premo, J.)

Filed February 25, 2004

H025122 PEOPLE v. NGUYEN

The judgment is reversed. The matter is remanded to the trial court for resentencing on the probation violation. The trial court is directed not to consider employment, education or vocational training as a condition of defendant's probation. (not published)

(Rushing, P.J.; We concur: Premo, J., Elia, J.)

Filed February 25, 2004

H025496 PEOPLE v. SWANGER

H026578 In re SWANGER on Habeas Corpus

The judgment is affirmed. The accompanying petition for writ of habeas corpus is denied. (not published)

(Mihara, J.; We concur: Bamattre-Manoukian, Acting P.J., Wunderlich, J.)

Filed February 25, 2004

THURSDAY, FEBRUARY 26, 2004

H024425 PEOPLE v. CAMPOS

The judgment is affirmed. (not published)

(Rushing, P.J.; We concur: Premo, J., Elia, J.)

Filed February 26, 2004

Sixth Appellate District

San Jose, California

Thursday, February 26, 2004 (continued)

H025836 PEOPLE v. BENNETT

(Filed order modifying opinion.) There is no change in the judgment. The petition for rehearing is denied. (not published) (Wunderlich, J.; Bamattre-Manoukian, Acting P.J., Mihara, J.)
Filed February 26, 2004

FRIDAY, FEBRUARY 27, 2004

H025574 PEOPLE v. PARMAR

The judgment is affirmed. (not published)
(Premo, J.; We concur: Rushing, P.J., Elia, J.)
Filed February 27, 2004

H025401 DENEVI v. LGCC, et al.

The judgment is affirmed. (not published)
(Premo, J.; We concur: Rushing, P.J., Elia, J.)
Filed February 27, 2004

H021153 DVD COPY CONTROL ASSOCIATION, INC. v. ANDREW BUNNER

The order granting a preliminary injunction is reversed. Defendant Andrew Bunner shall recover his appellate costs. (published)
(Premo, Acting P.J.; We concur: Elia, J., Mihara, J.)
Filed February 27, 2004

H024422 PEOPLE v. RANDELL

The judgment is affirmed. (not published)
(Rushing, P.J.; We concur: Premo, J., Elia, J.)
Filed February 27, 2004

H025397 PEOPLE v. RODRIGUEZ

H025473 PEOPLE v. RODRIGUEZ

The judgment is affirmed. (not published)
(Rushing, P.J.; We concur: Premo, J., Elia, J.)
Filed February 27, 2004

H026726 PEOPLE v. SALAZAR

The judgment is affirmed. (not published)
(McAdams, J.; We concur: Bamattre-Manoukian, Acting P.J., Mihara, J.)
Filed February 27, 2004

Sixth Appellate District

San Jose, California

Friday, February 27, 2004 (continued)

H025490 VARTANIAN v. INTEL CORPORATION

The judgment is affirmed. (not published)
(Elia, J.; We concur: Rushing, P.J., Premo, J.)
Filed February 27, 2004

H025447 PEOPLE v. FRANCISCO C.

The order is affirmed. (not published)
(Mihara, J.; We concur: Bamattre-Manoukian, Acting P.J.,
Wunderlich, J.)
Filed February 27, 2004

H025566 PEOPLE v. SAMUEL G.

The jurisdiction and disposition orders are affirmed. (not
published)
(Rushing, P.J.; We concur: Premo, J., Elia, J.)
Filed February 27, 2004

H025291 SHERWOOD PARTNERS, INC. v. STEWART AP, INC.

Assignee's motion for summary adjudication of the second
cause of action of the First Amended Complaint should have been
denied. Landlord's cross-motion for summary judgment should have
been granted. Accordingly, the judgment is reversed, and the
case is remanded to the court below with directions that judgment
be entered in favor of Landlord. Landlord shall recover its
costs on appeal. (not published)
(Wunderlich, J.; We concur: Bamattre-Manoukian, Acting P.J.,
Mihara, J.)
Filed February 27, 2004